

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PATRICK MORIN and JOSEPH OLIVIERI
as Trustees of the Empire State
Carpenters Welfare, Pension, Vacation,
Annuity, Scholarship, Apprentice-
Training, Labor-Management Cooperation
and Charitable Trust Funds,

AMENDED
ORDER ADOPTING REPORT
AND RECOMMENDATION
08-CV-3775(JS)(ARL)

Plaintiffs,

- against -

RCB CONSTRUCTION SPECIALIST, INC.,

Defendant.

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APPEARANCES:

For Plaintiffs: Christopher James Schulte, Esq.
Slevin & Hart, PC
1625 Massachusetts Avenue NW, Suite 450
Washington, DC 20036

For Defendants: No Appearance

SEYBERT, District Judge:

Magistrate Judge Arlene R. Lindsay issued a Report and Recommendation ("R&R") on September 11, 2009. As part of the R&R, Judge Lindsay warned that any objections were to be filed with the Clerk of the Court within ten days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court ADOPTS the R&R in its entirety. Accordingly, the Clerk of the Court is directed to enter a judgment of default in favor of Plaintiffs, the trustees and fiduciaries of the Empire State Carpenters Welfare, Pension, Vacation, Annuity, Scholarship, Apprentice-Training,

Labor-Management Cooperation and Charitable Trust Funds (the "Funds"), against Defendant, RCB Construction Specialist, Inc. Additionally, Defendant is directed to permit and cooperate in an audit of its books and records, and to furnish to the Funds information, books, records and reports in accordance with ERISA and its obligations under the Agreement so that the Plaintiffs may calculate the fringe benefit contributions and/or wage supplements owed by the Defendants. Finally, the Court awards Plaintiffs attorneys' fees and costs in the amounts of \$3,826.75 and \$460.00, for a total award of \$4,286.75.

The Clerk of the Court is directed to mark this matter CLOSED. If the audit reveals unpaid fringe benefit contributions or wage supplements owed by Defendant, Plaintiff may seek to reopen the case at a later time by way of a letter application to the Court.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: October 15, 2009
 Central Islip, New York